

Office of the Standing Chapter 13 Trustee  
105 Decker Court  
Suite 1150, 11<sup>th</sup> Floor  
Irving, Texas 75062  
(214) 855-9200  
(214) 965-9758 Fax

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE:	§	CASE NO: <b>18-31833-HDH</b>
	§	
<b>SARAH MARIE BUCKLEW</b>	§	CHAPTER 13
	§	
DEBTOR	§	PRE-HEARING: <b>July 24, 2018</b>
	§	TIME: <b>8:30 A.M.</b>

**TRUSTEE'S MOTION TO DISMISS WITH PREJUDICE**

TO THE HONORABLE HARLIN D. HALE, BANKRUPTCY JUDGE:

Comes now, Thomas D. Powers, Chapter 13 Trustee, herein, and pursuant to Sections 1307(c) and 109(g) of the Bankruptcy Code and Bankruptcy Rule 9014 files this Motion to Dismiss the above proceeding with prejudice, and would show unto the Court as follows:

1. Debtor initiated this instant Chapter 13 proceeding by the filing of a voluntary petition on June 1, 2018.
2. Debtor has filed the following cases within the last six (6) years.
  - a. **Case No. 14-32143-HDH** was filed by Debtor on May 3, 2014 and dismissed on October 1, 2014 for failure to obtain confirmation of her proposed Chapter 13 Plan. Debtor was represented by Bryeans and Garcia in this case.
  - b. **Case No. 15-33973-HDH** was filed by Debtor on October 2, 2015 and dismissed on August 9, 2016 for failure to remit plan payments to the Chapter 13 Trustee, post confirmation. Debtor was represented by Bryeans and Garcia in this case.
3. The pattern of filing repetitive Bankruptcy proceedings constitutes "serial filings." As noted, this is the third (3) bankruptcy filing by the Debtor since May 3, 2014. The filing of serial Bankruptcy petitions is not per se prohibited. However, the Trustee submits that debtor's serial filings exhibit lack of "good faith" as required by 11 U.S.C. Section 1307(c) which states in part: "...on the request of a party in interest ... and after

notice and a hearing, the court may convert ... or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, ...”

4. Thus an abuse of Section 362 occurs when the Debtor has no intention of effectuating a realistic plan and the bankruptcy court's self-executing injunction results in unnecessary and costly delay. Abuse of the automatic stay provision (by multiple filings) may constitute grounds for imposing the measures provided under Bankruptcy Rule 9011. See, In re Franz, 142 B.R. 611 (Bkrtpcy.D.Conn) 1992).
5. The previous filings of the Debtor shows a pattern of conduct that does not comport with the spirit of the Bankruptcy Code's provisions. This supports a conclusion that the latest in a series of petitions was filed for the primary purpose of delaying creditors.

Wherefore, Standing Chapter 13 Trustee, Movant herein prays for the entry by this Court of an Order Dismissing the above styled Chapter 13 proceeding of the Debtor, with prejudice for a period of one hundred eighty (180) days, and for all other just and proper relief.

Respectfully submitted,

/s/ Tara Tankersley  
Tara Tankersley  
Attorney for Chapter 13 Trustee  
State Bar No. 19636900  
105 Decker Court  
Suite 1150, 11<sup>th</sup> Floor  
Irving, Texas 75062  
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#### **NOTICE OF HEARING**

You are hereby notified of the filing of the “Trustee’s Motion to Dismiss with Prejudice” and “Notice of Hearing Thereon” for the reasons therein stated.

A pre-hearing conference on the “Trustee’s Motion to Dismiss with Prejudice” will be held on **July 24, 2018** at 8:30 a.m. in at 105 Decker Court, Suite 120, Irving, Texas. Any objections to the proposed motion not resolved or defaulted at the pre-hearing conference will be heard by the Court on **July 24, 2018** at 2:00 p.m. at 1100 Commerce Street, Fourteenth Floor, Dallas, Texas. Parties are not required to attend the pre-hearing conference unless they object to the motion.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing "Trustee's Motion to Dismiss with Prejudice" and "Notice of Hearing Thereon" has been served on the 27<sup>th</sup> day of June 2018 to the following parties at the addresses listed below by United States First Class Mail, or electronic service.

**Debtor:**

Sarah Marie Bucklew  
6221 Aspen Estates Drive  
Sachse, Texas 75048

**Debtor's Attorney:**

Bryeans and Garcia PLLC  
100 East 15<sup>th</sup> Street, Suite 660  
Fort Worth, Texas 76102

**Notices of Appearance:**

County of Dallas  
c/o Linebarger Goggan Blair et al  
2777 N. Stemmons Freeway, Suite 1000  
Dallas, Texas 75207

Attorney General of Texas  
400 S. Zang, Suite 1100  
Dallas, Texas 75208

Barrett Daffin Frappier et al  
15000 Surveyor Blvd., Suite 100  
Addison, Texas 75001

Dated: June 27, 2018

/s/ Tara Tankersley  
Tara Tankersley